

REMARKS

With respect to the examiner's objection to claims 76-77 in the Office Letter dated 14 December 2004, applicant has amended claims 76-77 to incorporate the changes suggested by the examiner, thereby putting these claims in condition for allowance.

With respect to the examiner's rejection of claims 68-69 and 74 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, the examiner claims that the specification "does not support growing a portion of said plant-fiber containing materials in the soils." Applicant respectfully directs the examiner to look at applicant's specification, specifically the paragraph that bridges pages 17 and 18:

"In the preferred embodiment of the present invention in which leguminous materials are included in the first component (a) of the disclosed composition, the leguminous materials can either be applied to contaminated media directly ... or they can be agriculturally cultivated *in-situ* by direct plantings of legume seeds or plants in the contaminated soils. The application of the leguminous materials can be conducted before, during or after the application of the other components of the disclosed chemical composition."

Accordingly, the specification clearly discloses that the leguminous material, i.e. the "plant-fiber containing materials from plant families selected from *Leguminosae* and *Phaeophyta*" included in component (a) of the disclosed composition, can be grown in the contaminated soils, i.e., "cultivated *in-situ*." The specification also discloses that the *in-situ* cultivation of the leguminous materials can be conducted by planting either seeds or plants. Importantly, the specification clearly discloses that the *in-situ* cultivation can be done together with the application of the disclosed chemical composition, and that plant cultivation can be done "before, during or after the application of the other components of the disclosed composition."

Earlier in the specification, on page 13, the applicant clearly states that the plant materials used in the present invention may be applied in the form of “processed” materials “and/or (ii) agriculturally cultivated plant materials...” (emphasis added). To wit, the examiner is respectfully directed to the third paragraph on page 13 of the applicant’s specification, wherein it is stated:

“In the preferred embodiment of the present invention, the first plant-derived component (a) of the disclosed chemical composition constitutes from 20% to 97% of the total composition by weight and is comprised of (i) the fine-particulate, dehydrated, dried and/or processed forms of nitrogen-fixing plant materials selected from the plant families *Leguminosae* and *Phaeophyta* and/or (ii) agriculturally cultivated plant materials selected from the plant family *Leguminosae*.

The applicant also directs the examiner’s attention to the first full paragraph on page 14 of the applicant’s specification, wherein it is stated:

“In the preferred embodiment of the present invention, the second plant-derived component (b) of the disclosed chemical composition constitutes 3% to 80% of the total composition by weight and would be comprised of (i) the industrially processed and/or (ii) agriculturally cultivated plant materials selected from the families *Gossypium* (e.g., cotton) and *Cannabaceae* (e.g., hops and hemp).”

The applicant notes that the above references to pages 13 and 14 of the specification provide the basis for the inclusion of the plant families *Leguminosae*, *Gossypium* and *Cannabaceae* within the Markush group recited in claims 68 and 69. In addition, the applicant notes the use of the phrase “and/or” which was intended to disclose that these plant materials could be applied via any combination of processed plant materials or plant materials cultivated *in-situ*.

In addition, the applicant directs the examiner's attention to the first full paragraph on page 16 of the applicant's specification, wherein it is stated:

"In the preferred embodiment of the present invention, an additional plant-derived component (g) would be included in the chemical composition which constitutes 0.5% to 30% of the total chemical composition by weight and is comprised of industrially processed or agriculturally cultivated plant materials from the families *Triticum* and *Aegilops* (e.g., wheat, oats, and the like)."

The applicant notes that the above reference to page 16 of the specification provides the basis for the inclusion of the plant families *Triticum* and *Aegilops* within the Markush group recited in claims 68 and 69.

Based on the foregoing, the applicant contends that the subject matter of claims 68-69 and 74 as submitted by the applicant are supported by the original specification and do not disclose new matter. It is believed that these claims, as amended herein, are in condition for allowance.

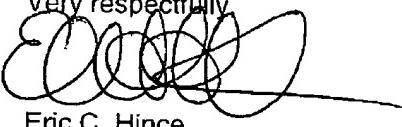
With respect to the examiner's rejection of claims 68-69 and 74 under 35 U.S.C. 112, second paragraph, as being vague and indefinite, the applicant has amended claims 68-69 by removing the phrase "a portion of", which had been objected to by the examiner. With respect to the examiner's argument that "it is unclear that the use of cultivated plants and the solid-chemical composition are supported by the instant specification as being used together as claimed," applicant again directs the examiner's attention to the paragraph bridging pages 17 and 18 of the specification as discussed above.

Conclusion

For all of the above reasons, applicant submits that the claims are now in proper form, and that the subject matter of the present invention is clearly defined and non-obvious relative to the prior art cited by the examiner. Therefore, applicant submits that this application is now in condition for allowance, which action he respectfully solicits.

Conditional Request for Constructive Assistance

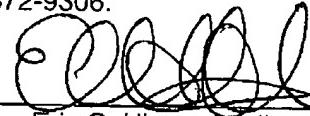
Applicant has amended this application so as to define the present invention by claims that are proper and definite, and which define a subject matter that is novel and also unobvious. If, for any reason, this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. §2173.02 and §707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

Eric C. Hince
Applicant

P.O. Box 293
Florida, NY 10921
Tel. (845) 651-4141
Fax (845) 651-0040

Certificate of Facsimile Transmission: I certify that on the date below this document and referenced attachments, if any, have been transmitted to the examiner at the facsimile number provided by the examiner: (703) 872-9306.

14 March 2005


Eric C. Hince, Applicant